

FINAL BILL REPORT

HB 1034

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Synopsis as Enacted

Brief Description: Conducting the administrative supervision of financially distressed insurers.

Sponsors: By Representatives Kirby, Roach and Simpson; by request of Insurance Commissioner.

House Committee on Financial Institutions & Insurance

Senate Committee on Financial Institutions, Housing & Consumer Protection

Background:

The Insurance Commissioner (Commissioner) oversees the regulation of insurance in Washington. An important regulatory responsibility of the Commissioner is monitoring the solvency of insurance companies and health carriers. The monitoring is achieved by the use of risk assessment formulas and various financial reporting requirements. If certain criteria are met, the Commissioner may apply for a court order for rehabilitation or liquidation of a domestic insurer (an insurer formed under the laws of Washington).

For the purpose of mergers, rehabilitation, or liquidation of an insurer, "insurer" includes life insurers, disability, property insurers, casualty insurers, vehicle insurers, title insurers, surety bonding companies, insurers or companies offering charitable gift annuities.

Summary:

The Commissioner is authorized to place an insurer under administrative supervision. An insurer under administrative supervision is subject to greater scrutiny. The insurer may be required to receive prior approval from the Commissioner or the appointed administrative supervisor before taking certain actions.

When an Insurer May be Put Under Administrative Supervision.

The Commissioner may place an insurer under administrative supervision if the Commissioner makes a finding that:

- the continuance of the insurer's business is financially hazardous to the public or to its insureds consistent with the insurance law or rules adopted by the Commissioner;
- the insurer has or appears to have exceeded its powers granted under the insurer's certificate of authority and the insurance law or rules adopted by the Commissioner;
- the insurer has failed to comply with the applicable provisions of the insurance law or rules adopted by the Commissioner and the continuance of the insurer's business is or will be financially hazardous to the public or to its insureds;
- the business of the insurer is being conducted fraudulently; or
- the insurer consents.

When an Insurer has Exceeded its Powers.

An insurer has "exceeded its powers" if it:

- refuses to permit examination of its books, papers, accounts, records, or affairs;
- unlawfully removes books, papers, accounts, or records necessary for an examination;
- fails to promptly comply with the applicable financial reporting statutes or rules;
- neglects or refuses to make up prohibited deficiencies in capital, capital stock, or surplus;
- transacts insurance or writes business after revocation or suspension of licensure; or
- unlawfully or in violation of an order (1) totally reinsures its entire outstanding business; (2) merges or consolidates substantially its entire property or business; or (3) engages in any unauthorized transaction.

Impact of Administrative Supervision.

The Commissioner must adopt standards and procedures to maintain orderly continuation of the operations of an insurer under administrative supervision. The Commissioner may prevent an insurer from doing any of the following things without the prior approval of the Commissioner or the appointed supervisor:

- sell or encumber any of its assets;
- withdraw bank accounts;
- lend funds or invest funds;
- transfer property;
- incur debt, obligation, or liability;
- merge or consolidate with another company;
- approve new premiums or renew any policies;
- enter into any new reinsurance contract or treaty;
- terminate, surrender, convert, or lapse a policy except for nonpayment of premiums;
- release, pay, or refund amounts received, accrued or reserved on any insurance policy;
- make a material change in management; or
- increase salaries and benefits of officers or directors.

Insurer's Right to Administrative Hearing.

Any action or failure to act by the Commissioner is subject to review under the insurance law and the Administrative Procedures Act (APA). An insurer may contest an action of an administrative supervisor. If denied after reconsideration, the insurer can request a proceeding under the insurance law.

Other Provisions.

Administrative supervisors are added to the persons receiving immunity.

Exemptions from public disclosure and disclosure in civil actions are created for actions related to the administrative supervision of an insurer. The Commissioner may open proceedings or make information public if the Commissioner deems it to be in the best interest of the insurer, its insureds or creditors, or the general public. The Commissioner's decision to disclose any confidential materials is subject to applicable law.

The Commissioner is not prevented from beginning liquidation or rehabilitation proceedings in addition to administrative supervision.

The Commissioner may adopt rules to implement this act.

Votes on Final Passage:

House	96	0	
Senate	42	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005